

Notice of Allowability

Application No.

09/827,895

Examiner

Jan M. Ludlow

Applicant(s)

HOWARD, JOHN K.

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Request for Reconsideration.
2. ☒ The allowed claim(s) is/are 1-35.
3. ☒ The drawings filed on 4/9/2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

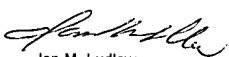
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Jan M. Ludlow
Primary Examiner
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1. The following is an examiner's statement of reasons for allowance: The prior art fails to teach or suggest a device as claimed including a continuous data band. Note that CD technology conventionally includes a continuous spiral of blocks or sectors (see, e.g., Padus website page; Sinquin col. 3, lines 20-45, esp. 39-42; Nakajima et al, bridge cols. 2-3). Note that magnetic disk (e.g., floppy disk) technology also conventionally employs tracks and/or sectors (see, e.g., Sinquin, col. 3, lines 32-35). Applicant argues:

First, it is respectfully submitted that Kimura's passing reference to a spiral track does NOT necessitate that the track is a "continuous circular data band." It is quite possible that the spiral track is broken into different tracks so as to have a spiral shape collectively but the data thereon is non-continuous. Indeed, Figure 1 appears to illustrate such non-continuous data tracks. It is noted that "inherency may not be established by probabilities or possibilities", *Scaltech Inc. v. Retec/Tetra*, 178 F.3d 1378 (Fed. Cir. 1999). Accordingly, even assuming *arguendo* proper, the proposed combination does not necessitate the claimed invention.

And the specification states:

Detail Description Paragraph - DETX (10):

[0028] Moreover, as a result of utilizing the "band" format to store the relevant information and data, the present invention operates with increased speed in comparison to known prior art devices. In particular, because of the use of the information/data band 14, all of the relevant, necessary information is contained in a single continuous track. As such, the retrieval/access time associated with retrieving or storing data is minimized. For example, assuming data storage was divided into sectors as opposed to the "band" of the present invention, then during the reading or writing of data in such a sectorized disk, it will often be necessary for the CD drive to suspend reading/writing of data as the desired sector is continuously rotated during operation. This results in an increase in the time required for the reading/writing of data. In addition, it is also likely that the CD drive would enter some kind of error recovery route upon encountering a sector that was not an information band, thereby further increasing the time required for reading/writing to the disk. In contrast, the band format of the present invention allows all relevant data, for example, for a given patient (which may be, but is not limited to, a human, an animal, a plant or almost any kind of source material), to be stored continuously within the information/data band 14, thereby eliminating the need for continuously starting and stopping the reading/writing process as required when utilizing a sector format. In addition, the "band" format also

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provides for maximization of the amount of data that can be stored on a single disk, by eliminating "dead space" that, for example, may be associated with disks segregated by sectors, where each sector is designated a predetermined amount of data storage capability. As stated above, additional storage space can be added to the information/data band by simply increasing the width of the band.

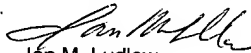
Thus, the claims are interpreted in view of the arguments and specification to preclude tracks, blocks, or sectors in the continuous band.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan M. Ludlow whose telephone number is (571) 272-1260. The examiner can normally be reached on Monday-Thursday, 11:30 am - 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jan M. Ludlow
Primary Examiner
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Jml
June 14, 2004